IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

A.O.NO.1073 of 1998.

Mrs.Suvasini Satyanarayan Narisetti .. Appellant

vs.

M/s. Prime Construction & Ors. .. Respondents

K.K.Malpathak, Advocate for the Appellant.

None for the Respondent.

CORAM : A.S.OKA, J.
DATED : 1st February, 2005.

ORAL JUDGMENT :

1. This appeal is preferred by unsuccessful plaintiff for challenging the impugned judgment and order dated 9.9.1998 by which the application made by the appellant at exhibit 19 under Order 40 Rule 1 of the Code of Civil Procedure 1908 for appointment of Court Receiver has been rejected.

2. I have heard Shri Malpathak for the appellants. None appears for the respondents.

3. Suit is filed by appellants for

declaration that agreement executed between the appellant and respondents for sale of a Row House is valid and subsisting and for specific performance of the said agreement. In the said suit an application for temporary injunction was made which was rejected by the trial Court. Appeal from Order No.1074 of 1998 was preferred by the appellant for challenging the said order. By a separate order I have disposed of the said appeal finally by directing that ad interim order passed by this Court in the said appeal will continue till final disposal of the suit in the trial Court. Thus the respondents have been restrained from creating third party interest and from parting with possession of the property in dispute.

4. After having heard the learned Advocate appearing for the appellant and after perusing the judgment and order, I am satisfied that no case is made out by the appellant for appointment of Court Receiver. Placing reliance on the judgment of Madras High Court, AIR 1995, Madras page 430, the learned trial Judge has come to the Conclusion

that no case was made out for appointment of the receiver. As stated earlier claim of the appellant in the suit is adequately protected by granting of prohibitory injunction . I find no infirmity in the impugned order.

. The appeal is dismissed with no order as to costs.

. Parties to act on the authenticated copy of this order.

(A.S.Oka, J.)